

FILED
U.S. DISTRICT COURT
DISTRICT OF MASS.

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

2005 MC 15 P 3:52

U.S. DISTRICT COURT
DISTRICT OF MASS.

National Stabilization Agreement of the Sheet Metal)	
Trust Fund, et al.)	
	Plaintiff,)
)
v.)	MBD No. 5-mc-10308-RCL
)	
E A Breen Jr. Roofing & Sheet Metal Work, Inc.)	
A/k/a E.A. Breen, Jr. Roofing & Sheet Metal Work, Inc.)	
A/k/a E.A. Breen, Jr. Rfg & Sheet Metal Works,)	
A/k/a E.A. Breen, Jr. Rfg & SM Works Inc.,)	
Defendant)	

**EMERGENCY MOTION TO DISSOLVE POST-JUDGMENT ATTACHMENT BY
TRUSTEE PROCESS UPON DEFENDANT'S BANK ACCOUNT AT WINTER HILL
BANK**

Now comes the defendant in the above-entitled action and respectfully requests that this Honorable court dissolve the post-judgment attachment that it Ordered on December 2, 2005 pursuant to the plaintiffs' Ex-Parte Motion for Order of Attachment By Trustee Process. As grounds for this Motion, the defendant states the following:

1. The plaintiffs obtained a default judgment against the defendant in the United States District Court, District of Virginia on May 15, 2005. The Virginia court does not have personal jurisdiction over the defendant and the judgment is void as a matter of law pursuant to M.G.L. c. 235, §23A.
2. The plaintiffs obtained an ex-parte attachment by Trustee Process upon the

defendant's bank account and failed to serve proper notice upon the defendant in violation of Mass.R. Civ.P. Rule 4.2 (c).

3. The attachment must be dissolved in accordance with Massachusetts law as the funds have not been demanded through a Trustee execution within 30 days of the final judgment and may be recovered by the defendant. M.G.L. c. 246, §40. A memorandum in support of this Motion is attached hereto and incorporated herein.

Respectfully submitted,

E.A. Breen Jr. Roofing & Sheet Metal
Work, Inc.,
By its Attorney,

DATE: 2/15/05


Lisa S. Mediano, BBO #642750
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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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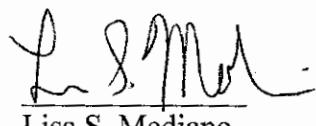
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Defendant)	

CERTIFICATE OF SERVICE

I, Lisa S. Mediano, hereby certify that I have served a true copy of the Notice of Appearance, Emergency Motion to Dissolve Post-Judgment Attachment, Memorandum in Support of Emergency Motion to Dissolve Post-Judgment Attachment by first class mail, postage prepaid, and email upon Attorney Randall E. Nash, 11 Beacon Street, Suite 500, Boston, MA 02108, and counsel for the Winter Hill Bank, Attorney Ronald Dardeno, 424 Broadway, Somerville, MA 02145.

DATE:


Lisa S. Mediano